IN THE HIGH COURT OF JUDICATURE,

ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 11440 of 1998

Between:

P.Arogyam S/o Souraiah R/o Nalgonda District.

..... PETITIONER

AND

1. The Presiding Officer,Labour Court-I, Hyderabad.
2. The Depot Manager,APSRTC., Hyderabad-I Depot, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order directions or writ more particularly one in the nature of writ of Certiorari and after calling for the records from the 1st respondent in I.D.No.7/95 and quash the award dt.2-12-97 confirming the termination order of the 2nd Respondent and consequently direct the Respondent to reinstate the Petitioner into service, with continuity of service, backwages and all other attendant benefits.

Counsel for the Petitioner: SMT.P.VIJAYA KUMARI

Counsel for the Respondent No.1: GP FOR LABOUR.

Counsel for the Respondent No.2: Mr.V.T.M.Prasad.

The Court made the following :

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THE HON'BLE SRI JUSTICE C.V.RAMULU

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WRIT PETITION NO.11440 OF 1998

ORAL ORDER:

This writ petition is filed by the workman (driver) being aggrieved by the Award passed by the Labour Court-I, Hyderabad in I.D.No.7 of 1995, dated 2-12-1997, wherein the Labour Court dismissed the claim petition filed by him under Section 2-A (2) of the Industrial Disputes Act.

The case of the petitioner is that he was appointed as Driver in A.P.S.R.T.C. in the month of December 1980. He worked at various places and at the relevant point of time he was attached to A.P.S.R.T.C., Hyderabad-I depot. While so, on 13-09-1992, when he was driving bus bearing No.A.P.9Z.2379 on the route Upper Siluru to Hyderabad at about 21-00 hours near Edurallapally, the bus met with an accident hitting a tree. According to the petitioner, none of the passengers were injured in the bus and no damage was caused to the bus. However, basing on the said incident, he was suspended from service on 12-10-1992 and a regular charge sheet was issued and after conducting a regular domestic enquiry into the matter and completing the formalities, the petitioner was removed from service of the Corporation with effect from 03-04-1993. Appeal filed by the petitioner also failed. Therefore, he raised dispute under Section 2-A (2) of the Industrial Disputes Act before the 1st respondent. A rejoinder was filed by the management before the Labour Court saying that the accident had occurred as a result of over speed and lack of concentration of the petitioner. It was found that the petitioner drove the vehicle in an intoxicating condition and caused much loss to the Corporation. A special report was submitted by the Traffic Inspector and basing on it, charges were framed and after conducting domestic enquiry into the matter, since charges were proved, services of the petitioner are dispensed with. The Appellate Authority also rightly refused to interfere with the said order.

Before the Labour Court, to substantiate his claim, the petitioner did not examine anybody and no documents were marked on his behalf. On behalf of the

management also none was examined, however, documents Ex.M-1 to M-31 were marked. After a detailed examination of the material available on record, the Labour Court came to the conclusion that since the petitioner drove the vehicle in a drunken condition and in a rash and negligent manner, the accident had occurred. The contributing factor for the accident being the drunkenness, the punishment of removal from service imposed, cannot be said to be on higher side and therefore, refused to interfere with the order of removal from service passed by the management and dismissed the claim petition. Hence, this writ petition.

Heard both sides.

The learned counsel for the petitioner strenuously contended that except the oral statements of the witnesses, there was no scientific proof or evidence either oral or documentary, to show that the petitioner was in an intoxicating condition at the time of accident. From the day one, the petitioner has been denying the allegation of drunkenness on his part. Further, the petitioner had put in more than 12 years of clean record. In the rejoinder filed before the Labour Court also the management has not stated anything adverse as to the conduct of the petitioner as a driver in the Corporation. It is also further asserted by the learned counsel for the petitioner that it is the first misconduct of the petitioner and therefore, he deserves a lenient view to be shown.

But, it is unfortunate, neither before the Labour Court nor before this Court, the petitioner has explained as to the manner in which the accident has occurred and that he was not responsible for the same or it was beyond his control. Therefore, the findings of the Labour Court cannot be said to be arbitrary or illegal.

It is also curious to know that though the service-conductor and extra driver were available in the bus at the time of accident, they were not examined by the management to elicit the truth. The whole case was built up only on the basis of a report given by the Traffic Inspector. Therefore, I am of the considered opinion that the punishment inflicted on the petitioner is disproportionate to that of the misconduct alleged against him, particularly in view of the clean record of the petitioner earlier.

Under those circumstances, I am of the view that the petitioner deserves a little lesser punishment than that of removal from service. Instead of remitting the

matter to the Labour Court or to the management to consider as to the proportionality of the punishment, I am of the opinion that since it is more than ten years that the petitioner was removed from service and also to give a quietus to this litigation, it is appropriate to suggest an alternative punishment for that of removal from service.

In the result, the Award passed by the Labour Court is modified to the effect that, the petitioner is entitled for reinstatement into service, but without continuity of service, without back wages and without any notional increments till the date of his reinstatement. The service rendered between the date of removal till the date of reinstatement also shall not be reckoned for any purpose including the retiral benefits.

With the above modification, the writ petition is disposed of. No order as to costs.

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C.V.Ramulu, J

21st June 2005.

Mrk

To

1. The Presiding Officer,Labour Court-I, Hyderabad.
2. The Deport Manager,APSRTC., Hyderabad-I Depot, Hyderabad.
3. Two CCs to the G.P. for Labour, High Court of A.P., Hyderabad.

4. Two CD copies.

*Form-NIC-OGS/WP{**PRASAD**}*